



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/612,238	07/07/2000	Jos Willy Ghislain Corneel De Sadeleer	PM 271542/CER-97	8729

22242 7590 04/02/2003

FITCH EVEN TABIN AND FLANNERY  
120 SOUTH LA SALLE STREET  
SUITE 1600  
CHICAGO, IL 60603-3406

EXAMINER

CORBIN, ARTHUR L

ART UNIT	PAPER NUMBER
----------	--------------

1761

DATE MAILED: 04/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No. 09/612,238  
 Applicant(s) DE SADELEER  
 Examiner ARTHUR L. CORBIN  
 Group Art Unit 1761

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 7-5-02, 7-12-02
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-12 is/are pending in the application.
- Of the above claim(s) 12 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-11 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☒ All ☐ Some\* ☐ None of the:
- ☒ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 1761

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2, 4, 6, 8, 10 and 11 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 is indefinite as to scope in reciting a genus "less than 20%" and species thereof "preferably ... 10%" in a single claim. There is no antecedent basis in claim 3 for "the final product" (claim 4); in claim 4 for "the carbohydrate", which can be corrected by changing "4" to "5"; in claim 8 for "the maximal torque" (claim 8, lines 6-7); and in claim 8 for "the later stage of the kneading" (claim 11). Claim 10 is indefinite in reciting that the kneading is halted before 75% of the maximal value is reached since claim 8 recites that "at least 75%" of the maximal torque is reached. Corrections are required without new matter.

3. Claims 1, 7 and 8 are objected to because of the following informalities: In claim 1, "are" should be changed to "is". In claim 7, "are vital" should be changed to "is vital wheat". In claim 8, line 6, "the" (2<sup>nd</sup> occurrence) should be changed to "a".. Appropriate correction is required.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 1761

5. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw et al, Hashimoto et al, Kobayashi et al or Yajima et al.

Shaw et al (cols. 4 and 5) discloses mixing vital wheat gluten with glycerin and water in a ratio of greater than 2 parts glycerin per part of water in the preparation of chewing gum. The mixing is performed in a low shear mixer and then in a higher shear mixer resulting in gluten bonding. Hashimoto et al (Exs. 1-3) discloses mixing dry denatured gluten with glycerin and water in a ratio of 2 parts glycerin per part water. The mixture is then kneaded in the preparation of a chewing gum base. Kobayashi et al (Ex. 17) discloses kneading a mixture of gluten and glycerol in the preparation of chewing gum. Yajima et al (col. 17) discloses mixing dry denatured wheat gluten with glycerin in water in a ratio of 2 parts glycerin to 1 part water and then kneading the mixture in the preparation of chewing gum. It would have been obvious that the mixing and kneading which occurs in each primary reference results in developing of the *gluten* used therein since said gluten is capable of being used as a gum base for chewing gum products. Finding the optimum water content and water activity of the glycerin -water mixture (claims 2-4 and 9), the optimum percent gluten present in the mixture (claim 8) and the optimum kneading parameters (claims 8 and 10) would require nothing more than routine experimentation by one having reasonable skill in this art.

6. Claim 12 stands withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in Paper No. 6.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Corbin whose telephone number is 703 308-3850. The


Art Unit: 1761

examiner can normally be reached on Tuesday-Friday from 10 AM to 7:30 PM and on alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703 308-3929. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872-9310 for regular communications and 703 872-9310 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-0661.

Examiner Corbin/ng  
October 8, 2002



ARTHUR L. CORBIN  
PRIMARY EXAMINER  
10-16-02